

JUDGE RAKOFF

14 CV 3542

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SHIMSHON WEXLER, on behalf of himself
and all others similarly situated

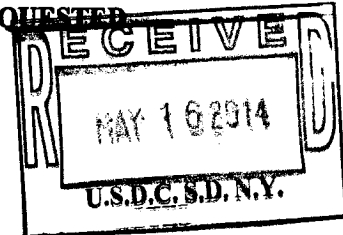
Plaintiff,

**COMPLAINT-CLASS ACTION
JURY TRIAL REQUESTED**

v.

ALLIANCEONE RECEIVABLES
MANAGEMENT, Inc.

Defendant.
-----X



INTRODUCTION

1. Plaintiff brings this action to secure redress from unlawful credit and collection practices engaged in by Defendant Allianceone Receivables Management, Inc. ("Allianceone"). Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt. 15 U.S.C. §§1692d, 1692e and 1692f.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA).

4. Venue and personal jurisdiction in this District are proper because the collection communication at issue was received by plaintiff within this District and Defendants do business within this District.

PARTIES

5. Plaintiff, Shimshon Wexler, is an individual.

6. Defendant, Allianceone, is a Delaware corporation doing business in New York with an address of C/O CT Corporation at 111 Eighth Avenue in New York, NY 10011.

7. Allianceone is a debt collector as defined by the FDCPA.

FACTS

8. On or about May 31, 2013, Allianceone sent the letter attached as ExhibitA to plaintiff.
9. In sending the letter, Allianceone sought to collect a debt incurred for personal, family or household purposes, namely fees emanating from a personal cell phone bill.
10. The letter stated "It is our practice to place information regarding the debt with the appropriate credit-reporting agencies."
11. Allianceone did not place information regarding Plaintiff's T-Mobile account on his credit report.

VIOLATIONS ALLEGED

12. The letter which Allianceone sent violates 15 U.S.C. § 1692 and 1692e.
13. Section 1692e provides:

§ 1692e. False or Misleading Representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

.....

5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

.....

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

14. Allianceone violated the above quoted provision of the statute because it failed to disclose that the communication is from a debt collector.

15. Allianceone is liable to the plaintiff for statutory damages pursuant to 1692k.

CLASS ALLEGATIONS

16. Plaintiff brings this action on behalf of a class, pursuant to Federal Rules of Civil Procedure Rule 23(a) and 23(b)(3).

17. The class consists of (a) all individuals (b) with a New York address (c) who have received a letter in the form of Exhibit A (d) seeking to collect a consumer debt (e) where the T-Mobile USA, Inc. account was never reported to a credit-reporting agency (f) on a date which is one year prior and twenty days subsequent to the date of the filing of this complaint.

18. The class is so numerous that joinder of all members is not practicable. On information and belief, there are at least 40 members of the class.

19. There are questions of law and fact common to the class, which common questions predominate over any questions relating to individual class members. The predominant common question is whether the letter at issue in this case violates the FDCPA.

20. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

21. Plaintiff will fairly and adequately represent the class members. Plaintiff has retained counsel experienced in class actions and FDCPA litigation.

22. A class action is superior for the fair and efficient adjudication of this matter, in that:

- a. Individual actions are not economically feasible;
- b. Members of the class are likely to be unaware of their rights;
- c. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

WHEREFORE, the Court should enter judgment in favor of plaintiff and against defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

DEMAND FOR TRIAL BY JURY

Plaintiff requests trial by jury on all issues so triable.

Dated: New York, New York

April 6, 2014

May 1

THE PLAINTIFF

By: 

Aaron Cohen

The Cohen Law Office, PC

Attorney for Plaintiff

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acohen@cohenlawpc.net

AC 0613

AllianceOne

Receivables Management, Inc.

4850 Street Rd. Suite 300
Trevose PA 19053

↑ Please send all correspondence to the above address

Exhibit A

Telephone: 866-247-2503

May 31, 2013

Name: SHIMSHON WEXLER

Account Number: 20826272

PIN: T6272M

Client Reference Number: 673919787

Client: T-Mobile USA, Inc.

Your account has been referred to our office for Collections.

If this has been an oversight on your behalf, mail the balance in full to our office. If you are experiencing financial difficulties, call our office and a representative will assist you in negotiating a suitable arrangement.

Telephone: 866-247-2503

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

It is our practice to place information regarding the debt with the appropriate credit-reporting agencies.

As of the date of this letter, you owe \$534.18. Your account balance may be periodically increased due to the addition of accrued interest or other charges if so provided in your agreement with your original creditor.

This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

Sincerely,

Curtis Stanley

New York City Department of Consumer Affairs license number is 1265903.

X Detach Bottom Section And Return With Payment X

PO BOX 510987
LIVONIA MI 48151-6987
RETURN SERVICE REQUESTED

↑ Mail return address only; send no letters

To contact us regarding your account, call:
866-247-2503

AllianceOne

T-Mobile USA, Inc.		
673919787	\$534.18	\$

↑ Please make check or money order payable to:

S-ONAMFC10 L-3010 A-20826272 O-TMO
P2QDL300202254 102253

SHIMSHON WEXLER
515 W 110TH ST APT 10G
NEW YORK NY 10025-2054

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
PO BOX 3105
SOUTHEASTERN PA 19398-3105

TMO 0000000673919787 20826272 1 00000000 0000053418 0000000000 7